Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 96-45
Federal-State Joint Board	)	
On Universal Service	)	

Staff Study Public Notice

Comments of Beacon Telecommunications Advisors, LLC

Beacon Telecommunications Advisors, LLC (Beacon) submits these comments in response to a recent Staff study on proposals to reform the Commission's universal service contribution methodology.[1] Beacon is a regulatory, financial, and management consulting firm providing services to small, rural, and tribal incumbent local exchange carriers (LECs) throughout the United States.

Cost/Benefit Relationship

When formulating an equitable and fair solution for telecommunications providers to contribute into universal service support mechanisms, Beacon believes the underlying principle in this determination must be related to "cost versus benefit". In other words, the providers of interstate services that gain benefit from the existence of the public switched telecommunications network that is supported in part by universal service funding should likewise have the responsibility to pay for the mechanisms that support the public switched telecommunications network. While Staff's studies exemplify well thought out connections-based approaches to meet the equitable and nondiscriminatory criteria of Section 254 of the Act, Beacon contends the fairest approach to sharing cost responsibility for universal service lies with the telecommunications providers receiving revenue benefits from these connections to the public switched telecommunications network. Put another way, those telecommunications carriers and providers receiving revenue-generating benefits from using the public switched telecommunications network should share in the responsibility to pay a proportionate share of the universal service support mechanisms that have been mandated by the Commission.

Inherent Flaw in basing Contributions on Connections

With the transition to packet-based switching, VoIP technology, ATM, and broadband services, LECs are finding it more and more difficult to track and monitor, and in essence define, "connections" to the public switched telecommunications network. In their attempt to identify and recognize each type of telecommunications connection, Staff's studies explicitly detailed the nature and category of various connections, as those connections exist today. Yet with the technological explosion of broadband services, including wireless and VoIP services, there is no practical way to identify every possible connection to the public telecommunications network, either now or in the future. In this regard, something less than 100% of all possible connections will be identified, thereby contributing to disparate and discriminatory treatment to telecommunications providers that are responsible for contributing to universal service support mechanisms. The most realistic and practical solution to address the dilemma that will occur with any connections-based approach is to continue assessing universal service contributions utilizing a revenue-based approach. While connections may not be relevant to certain interstate services, revenues are relevant to all interstate services and will therefore better meet the criteria of Section 254(b)(4) that all providers of interstate telecommunications services contribute on an equitable and nondiscriminatory basis.

Bypass Considerations

The primary problem underlying the use of connections is that not all providers of interstate services use connections either because there is no specific connection associated with their service, or that connections are not relevant to the technology that they are using to provide their services. An example of the former is prepaid calling

[1] FCC Public Notice released 2/26/03

cards. There is no identifiable telecommunications connection associated with these cards and they can be used from virtually any telephone.

As a matter of practicality, consumers connected to the public switched telecommunications network generally have a presubscribed carrier for toll service. Assessing universal service contributions based on connections becomes an inequality issue when a consumer is presubscribed to a primary IXC yet uses another provider for all of their interstate toll service via “dial around” options (for example, prepaid calling cards). In this example, if a connections-based approach were accepted, the presubscribed toll carrier would be required to pay into the universal service support fund, yet they receive no benefit from this particular consumer. In other words, why should the presubscribed carrier that is receiving no interstate toll revenue from this customer be required to contribute to universal service support mechanisms simply because the customer chose them for administrative reasons? In reality, the only reason for the presubscribed IXC to correspond with this customer may be to send the customer a bill to collect the universal service fee! On the other hand, should a revenue-based approach be applied to this example, both the presubscribed IXC as well as the “dial around” provider would be more properly and equitably assessed in view of the fact that the presubscribed IXC would not be required to pay into the fund as a result of not serving this customer and the “dial around” provider would have to pay as a result of receiving revenue from this customer.

Specific Proposed Connection-based Contribution Methodologies

In reviewing the overall ideology behind the Commission’s specific proposals, Beacon has concern with each of the proposals, as outlined below:

Minimum Contribution Obligation

In considering this methodology, the Commission admits to flaws inherent with this specific contribution assessment approach. The Commission “recognizes that a minimum contribution requirement based on all interstate telecommunications revenues may lead to the double-counting of revenues."[2] Beacon suggests that instead of utilizing an approach such at this that may be flawed from the beginning, retaining the current mechanism is fundamentally sound. To the extent that estimates or safe harbors are used to determine interstate revenues, such determinations need be no more difficult for assessing contribution bases than it is to report estimated income taxes to the IRS and other state or local taxing authorities. In addition, Beacon contends that a "minimum contribution obligation" approach is inequitable and discriminatory since "Multi-line business connections would be assessed at varying amounts based on their classification into different tiers of capacity, at levels sufficient to cover residual funding requirements."[3] Assessing multi-line businesses with a residual charge sufficient to maintain the universal service fund would in and of itself be discriminatory.

Splitting Between Switched Transport and Access Providers

Under this approach, the Commission notes, "Assessments would not distinguish between residential and business connections, but rather would be based purely on capacity. As a result, assessments on a typical residential connection would be higher than under the first proposal discussed above."[4] Beacon has profound concerns about this type of an approach. Not only does it leave out entire groups of providers of interstate services that do not have connections, but it also may needlessly compromise the goals of the Act and specifically Section 254(b)(1) regarding the affordability standard.

Telephone Number-Based Methodology

Based on the example above regarding prepaid calling card providers, a telephone number-based methodology will not be appropriate to track and monitor those telecommunications providers choosing to provide toll service via "dial around." Since this service is becoming more widely accepted and utilized by consumers, it makes sense that telecommunications service providers choosing to offer this service could "game the

[2] Second Further Notice of Proposed Rulemaking, CC Docket No. 96-45, para. 79
[3] Ibid, para. 75
[4] Ibid, para. 87

system" and encourage "uneconomic bypass" if this approach is chosen as the contribution methodology.

In summary, basing universal service contribution assessments using a connection-based approach will not produce the same affordable, predictable, equitable, and nondiscriminatory benefits as the current revenue-based approach. Beacon strongly advocates the Commission consider a revenue-based approach as the most viable alternative in maintaining and supporting the universal service support funding mechanism in the future.

Basing Universal Service Support Contributions on Projected Revenues

Beacon continues to believe the Commission's currently adopted methodology of assessing universal service contributions based on projected end user interstate and international telecommunications revenues does now and will continue to provide a reasonable means to fund universal service obligations on a long term basis. As Beacon outlined in comments submitted in this docket in the *Second Further Notice of Proposed Rulemaking*[5], numerous reasons exist, each achieving the Commission's goal as well as that of Section 254, to support basing universal service contributions on projected end user interstate and international telecommunications revenue: 1) in accepting to utilize the current mechanism of assessing universal service contributions based on projected revenues, the Commission must see merit in its foundation; 2) Section 254(b)(4) of the Act mandates that all providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service. The current methodology meets this directive; and 3) administratively, the current system has a history of working, is supportable, and is maintainable.

Conclusion

[5] Beacon Comments submitted 1/27/03, CC Docket No. 96-45

Reflecting on the above, Beacon urges the Commission to carefully consider whether implementing a connections-based approach meets the requirement of Section 254(b)(4) better than the current revenue-based system. As shown above, connection-based alternatives will force certain providers to pay into the universal service support mechanisms when they receive no revenue benefit while allowing other providers who do receive revenue benefit to avoid being assessed. The appeal of continuing to utilize the current system is that it matches revenue benefit derived with proportionally shared cost responsibilities for funding the universal service support mechanisms. To the extent the current methodology does not sufficiently meet these objectives and mandates of Section 254, Beacon believes that "fine-tuning" the assessment formulas will fix the perceived problems.

Respectfully submitted,

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[Filed Electronically]

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